

APPEAL NO. 031516
FILED JULY 17, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 12, 2003. The hearing officer determined that the appellant (claimant) had not sustained a compensable occupational disease injury on _____, and that the claimant did not have disability.

The claimant appeals on sufficiency of the evidence grounds, citing medical evidence that supports her position. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant had sustained a prior right upper extremity (RUE) injury on (prior date of injury). The claimant testified that because of her RUE injury she taught herself to write left handed (the claimant is naturally right handed). The claimant contends that she sustained a repetitive trauma occupational disease (see Section 401.011(34) and (36)) injury to her left upper extremity (LUE) filling out credit applications, answering the telephone, and working with a heavy stock book on her desk. In evidence is surveillance videotape taken in October 2002, showing the claimant performing activities of daily living without observable discomfort. The hearing officer commented, in the discussion portion of his decision, that he did not find the claimant credible nor did he find the claimant's treating chiropractor "credible in statements made in regard to the [LUE]."

The medical evidence was in conflict. The claimant had the burden to prove that she sustained an injury to the LUE and had disability as defined in Section 401.011(16). The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge